

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL ACTION NO. 5:12-CV-047-RLV-DCK**

NICHOLE MCKINNEY,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
CAROLYN W. COLVIN,)	
Commissioner of Social Security)	
Administration,)	
)	
Defendant.)	
)	

THIS MATTER IS BEFORE THE COURT on “Plaintiff’s Amended Motion For Attorney Fees Under § 406(b) Of The Social Security Act” (Document No. 24) filed May 18, 2016. This case has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §636(b)(1)(B) and is now ripe for disposition. Having carefully considered the motion and the record, and that Defendant does not object to the motion, the undersigned will grant the motion.

By the instant motion, Plaintiff’s counsel seeks an award of attorney fees under the Social Security Act, 42 U.S.C. § 406(b), which provides that a “court may determine and allow as part of its judgment a reasonable fee . . . not in excess of 25 percent of the total of the past due benefits to which claimant is entitled by reason of such judgment.” It appears that the Social Security Administration (“SSA”) has determined that a total of \$41,481.40 in back benefits was awarded to Plaintiff and her children on account of her disability. Plaintiff received \$27,752.40 in back benefits on her own account and her children received \$6,887.00 and \$6,842.00 respectively. Therefore 25% of the back benefits totals \$10,370.35. (Document No. 24, p.2)

Recent case law provides that a court should review contingent-fee agreements, such as the one here, for reasonableness. Griffin v. Astrue, 1:10cv115-MR, 2012 WL 3155578 at *2

(W.D.N.C. August 2, 2012) (citing Gisbrecht v. Barnhart, 535 U.S. 789 (2002) and Mudd v. Barnhart, 418 F.3d 424 (4th Cir. 2005)).

Plaintiff's counsel now seeks an award of \$3,000.00 in attorney's fees. (Document No. 24, p.1-2). Plaintiff reports that Defendant "does not object to this request for fees." (Document No. 24, p.2).

Based on the foregoing, applicable authority, and Plaintiff's papers, the undersigned finds that Plaintiff's request for fees should be granted.

IT IS, THEREFORE, ORDERED that "Plaintiff's Amended Motion For Attorney Fees Under § 406(b) Of The Social Security Act" (Document No. 24) is **GRANTED**. The Court awards Plaintiff's counsel fees in the amount of **\$3,000.00**. Plaintiff shall be reimbursed the EAJA fee of **\$868.06**.

SO ORDERED.

Signed: May 20, 2016



David C. Keesler
United States Magistrate Judge
